

AMENDED IN SENATE MAY 19, 1999

AMENDED IN SENATE MAY 6, 1999

AMENDED IN SENATE APRIL 12, 1999

SENATE BILL

No. 1171

Introduced by Senator Johnson

February 26, 1999

An act to add Section 17210 to the Business and Professions Code, to add Section 1865 to the Civil Code, and to amend Section 365 of the Penal Code, relating to public accommodations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1171, as amended, Johnson. Public accommodations.

Existing law regulates the operations of a hotel, inn, boardinghouse, or lodginghouse, as specified. Existing law also prohibits unfair competition, as specified.

This bill would authorize an innkeeper to evict a guest who stays beyond the contractual period, as specified. This bill would also authorize a hotel, as defined, to prohibit the distribution of handbills on the premises, as specified, and would make a prohibited distribution of handbills on the premises punishable by a civil penalty as unfair competition under existing law.

Existing law makes it a misdemeanor for a person, and every agent or officer of any corporation, carrying on business as an innkeeper to refuse, without just cause, to receive and entertain any guest.

This bill would make certain exceptions with respect to guests who are minors, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17210 is added to the Business
2 and Professions Code, to read:

3 17210. (a) For purposes of this section, “hotel” means
4 any hotel, motel, bed and breakfast inn, or other similar
5 transient lodging establishment, but it does not include
6 any residential hotel as defined in Section 50519 of the
7 Health and Safety Code. “Innkeeper” means the owner
8 or operator of a hotel, or the duly authorized agent or
9 employee of the owner or operator.

10 (b) For purposes of this section, “handbill” means, and
11 is specifically limited to, any tangible commercial
12 solicitation to guests of the hotel urging that they
13 patronize any commercial enterprise.

14 (c) Every person (hereinafter “distributor”) engages
15 in unfair competition for purposes of this chapter who
16 deposits, places, throws, scatters, casts, or otherwise
17 distributes any handbill to any individual guest rooms in
18 any hotel, including, but not limited to, placing, throwing,
19 leaving, or attaching any handbill adjacent to, upon, or
20 underneath any guest room door, doorknob, or guest
21 room entryway, where either the innkeeper has
22 expressed objection to handbill distribution, either orally
23 to the distributor or by the posting of a sign or other notice
24 in a conspicuous place within the lobby area and at all
25 points of access from the exterior of the premises to guest
26 room areas indicating that handbill distribution is
27 prohibited, or the distributor has received written notice
28 pursuant to subdivision (e) that the innkeeper has
29 expressed objection to the distribution of handbills to
30 guest rooms in the hotel.

31 (d) Every person (hereinafter “contractor”) engages
32 in unfair competition for purposes of this chapter who
33 causes or directs any other person, firm, business, or



1 entity to distribute, or cause the distribution of, any
2 handbill to any individual guest rooms in any hotel in
3 violation of subdivision (c) of this section, if the
4 contractor has received written notice from the
5 innkeeper objecting to the distribution of handbills to
6 individual guest rooms in the hotel.

7 (e) Every contractor who causes or directs any
8 distributor to distribute, or cause the distribution of, any
9 handbills to any individual guest rooms in any hotel, if the
10 contractor has received written notice from the
11 innkeeper or from any other contractor or intermediary
12 pursuant to this subdivision, objecting to the distribution
13 of handbills to individual guest rooms in the hotel has
14 failed to provide a written copy of that notice to each
15 distributor prior to the commencement of distribution of
16 handbills by the distributor or by any person hired or
17 retained by the distributor for that purpose, or, within 24
18 hours following the receipt of the notice by the contractor
19 if received after the commencement of distribution, and
20 has failed to instruct and demand any distributor to not
21 distribute, or to cease the distribution of, the handbills to
22 individual guest rooms in any hotel for which such a
23 notice has been received is in violation of this section.

24 (f) Any written notice given, or caused to be given, by
25 the innkeeper pursuant to or required by any provision
26 of this section shall be deemed to be in full force and effect
27 until such time as the notice is revoked in writing.

28 (g) Nothing in this section shall be deemed to prohibit
29 the distribution of a handbill to guest rooms in any hotel
30 where the distribution has been requested or approved
31 in writing by the innkeeper, or to any individual guest
32 room when the occupant thereof has affirmatively
33 requested or approved the distribution of the handbill
34 during the duration of the guest's occupancy.

35 SEC. 2. Section 1865 is added to the Civil Code, to
36 read:

37 1865. (a) For purposes of this section, "hotel" means
38 any hotel, motel, bed and breakfast inn, or other similar
39 transient lodging establishment, but it shall not include
40 any residential hotel as defined in Section 50519 of the

1 Health and Safety Code. “Innkeeper” means the owner
2 or operator of a hotel, or the duly authorized agent or
3 employee of such owner or operator.

4 (b) For purposes of this section, “guest” means, and is
5 specifically limited to, an occupant of a hotel whose
6 occupancy is exempt, pursuant to subdivision (b) of
7 Section 1940 of the Civil Code, from Chapter 2
8 (commencing with Section 1940) of Title 5 of Part 4 of
9 Division 3 of the Civil Code.

10 (c) In addition to, and not in derogation of, any other
11 provision of law, every innkeeper shall have the right to
12 evict a guest in the manner specified in this subdivision
13 if the guest refuses or otherwise fails to fully depart the
14 ~~premises~~ *guest room* at or before the innkeeper’s posted
15 checkout time on the date agreed to by the guest, but only
16 if all of the following conditions are met:

17 (1) If the guest is provided written notice, at the time
18 that he or she was received and provided
19 accommodations by the innkeeper, that the innkeeper
20 needs that guest’s room to accommodate an arriving
21 person with a contractual right thereto, and that if the
22 guest fails to fully depart at the time agreed to the
23 innkeeper may enter the guest’s guest room, take
24 possession of the guest’s property, re-key the door to the
25 guest room, and make the guest room available to a new
26 guest. The written notice shall be signed by the guest.

27 (2) At the time that the innkeeper actually undertakes
28 to evict the guest as specified in this subdivision, the
29 innkeeper in fact has a contractual obligation to provide
30 the guest room to an arriving person.

31 (3) The eviction is not undertaken until the ~~latter~~ *later*
32 of the posted checkout time ~~and~~ *or* two hours prior to the
33 time when the new guest is due to arrive.

34 In the above cases, the innkeeper may enter the guest’s
35 guest room, take possession of the guest’s property, re-key
36 the door to the guest room, and make the guest room
37 available to a new guest. The evicted guest shall be
38 entitled to immediate possession of his or her property
39 upon request therefor, subject to the rights of the
40 innkeeper pursuant to Sections 1861 to 1861.28, inclusive.

(d) As pertains to a minor, the rights of an innkeeper include, but are not limited to, the following:

(1) Where a minor unaccompanied by an adult seeks accommodations, the innkeeper may require a parent or guardian of the minor, or another responsible adult, to assume, in writing ~~and in a manner otherwise reasonably acceptable to the innkeeper~~, full liability for any and all proper charges and other obligations incurred by the minor for accommodations, food and beverages, and other services provided by or through the innkeeper, as well as for any and all injuries or damage caused by the minor to any person or property.

(2) Where a minor is accompanied by an adult, the innkeeper may require the adult to agree, in writing ~~and in a manner otherwise reasonably acceptable to the innkeeper~~, not to *leave* any minor 12 years of age or younger unattended on the innkeeper's premises at any time during their stay, and to ~~monitor and~~ control the minor's behavior *during their stay* so as to preserve the peace and quiet of the innkeeper's other guests and to prevent any injury to any person and damage to any property.

SEC. 3. Section 365 of the Penal Code is amended to read:

365. Every person, and every agent or officer of any corporation carrying on business as an innkeeper, or as a common carrier of passengers, who refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor. However, an innkeeper who has proceeded as authorized by Section 1865 of the Civil Code shall be rebuttably presumed to have acted with just cause or excuse for purposes of this section.

CORRECTIONS

Text — Pages 4 and 5.

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